



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500 004

O.P.No.53 of 2021
(Suo Moto)

Dated 20.11.2021

Present

Sri T.Sriranga Rao, Chairman
Sri M.D.Manohar Raju, Member (Technical)
Sri Bandaru Krishnaiah, Member (Finance)

In the matter of according consent to the draft amendment to Power Purchase & Wheeling Agreement (PP&WA) entered into between Northern Power Distribution Company of Telangana Limited and M/s Gayatri Sugars Limited for procurement of power from its 6 MW bagasse based cogeneration plant at Adloor Yellareddy (V), Kamareddy District, Telangana for a period of 5 years from 23.05.2021 to 22.05.2026

ORDER

Background:

1. The erstwhile Transmission Corporation of Andhra Pradesh Limited (APTRANSCO) has entered into a Power Purchase and Wheeling Agreement (PP&WA) dated 17.01.2000 with M/s NCS Gayatri Sugars Limited (presently M/s Gayatri Sugars Limited) for sale and purchase of power from its 8 MW bagasse based cogeneration plant located at Adloor Yellareddy (V), Kamareddy. The tenure of PP&WA being 20 years from COD. The Article 9 of the PP&WA stipulates that PP&WA may be renewed for such further period of time and on such terms and conditions as may be mutually agreed upon by the parties, 90 days prior to the expiry of twenty (20) years.
2. The PP&WA was amended (first amendment) on 22.12.2000 in view of the orders of the Non-conventional Energy Development Corporation of Andhra Pradesh Limited (NEDCAP) enhancing the capacity of the project from 8 MW to 9 MW (out of 9 MW capacity, 3 MW is the existing captive power plant using bagasse as fuel and 6 MW is the proposed Bagasse cogeneration plant for export to Grid at 33 kV level)

and as per the directions of APERC to amend the agreement vide letter No.APERC/Secy/ Dir-Engg/F.NC/Developers/D.No.1975/2000, dated 01.08.2000 and as per T.O.O. (CE-IPC) Ms.No.65, dated 26.06.2000. The 6 MW Bagasse based cogeneration plant of M/s Gayatri Sugars Limited achieved COD on 23.05.2001.

3. The Bulk supply undertaking and power purchase undertaking of APTRANSCO was transferred to the then four Distribution Companies of undivided Andhra Pradesh vide G.O.Ms.No.58, Energy (Power-III) Department dated 07.06.2005, and allocated the capacity from the said power plant to Northern Power Distribution Company of Andhra Pradesh Limited (presently Northern Power Distribution Company of Telangana Limited or TSNPDCL).

4. The said PP&WA was further amended (second amendment) on 08.11.2017 for effecting name change from M/s NCS Gayatri Sugars Limited to M/s Gayatri Sugars Limited and likewise substituting the name of licensee, APTRANSCO wherever appearing with the name of Northern Power Distribution Company of Telangana Limited in its full form after receiving the approval of the Commission for necessary amendment on 13.06.2016.

Present Proposal of TSNPDCL

5. TSNPDCL vide its Lr.No.CGM(IPC&RAC)/GM(IPC&RAC)/DE/ADE(IPC)/ F.6MW/D.No.680/20, dated 12.03.2021 submitted that as per Article 9 of the PP&WA M/s Gayatri Sugars Limited vide letter dated 18.12.2020 had offered to supply power @ Rs.3.14/kWh, without escalation for further period of five (5) years from 23.05.2021 to 22.05.2026. In consideration of the proposal of M/s Gayatri Sugars Limited, the draft 3rd Amendment to PP&WA entered with M/s Gayatri Sugars Limited on 09.03.2021 for extension of PP&WA for further period of five (5) years i.e., from 23.05.2021 to 22.05.2026 at a tariff of Rs.3.14/kWh without escalation (inclusive of all taxes and duties) duly amending the articles 2.15, 4.1 & 9 of the PP&WA as given hereunder and the same was submitted for consent of the Commission.

Sl. No.	Article No.	Existing	Amendment (New)
1.	2.15	Where in any Billing Month, the Delivery Energy is less than the energy supplied by the TSNPDCL to the Company, the difference,	Where in any Billing Month, the energy supplied by the TSNPDCL to the Company, shall be billed by the TSNPDCL, and the Company

Sl. No.	Article No.	Existing	Amendment (New)
		being excess energy supplied by the TSNPDCL, shall be billed by the TSNPDCL, and the Company shall pay the TSNPDCL for such electricity supplies, at the TSNPDCL's then-effective tariff applicable to High Tension Category-I Consumers. For this purpose, the maximum demand specified in such tariff shall be computed by dividing the amount of such excess energy supplied by the TSNPDCL by the total hours in the Billing Month.	shall pay the TSNPDCL for such electricity supplies, at the TSNPDCL's then-effective tariff applicable to High Tension Category-I Consumers. For this purpose, the maximum demand specified in such TSNPDCL's Tariff shall be computed by dividing the amount of such excess energy supplied by the TSNPDCL by the total hours in the Billing Month.
2.	4.1	<p>Subject to the provisions of this agreement, TSNPDCL shall purchase the Energy delivered by the Company for sale to TSNPDCL, from and after the date of commercial operation of the project.</p> <p>The Company shall be paid the tariff for the Energy delivered at the interconnection point for sale to TSNPDCL at Rs.2.25 paise per unit with escalation at 5% per annum (with 1997-98 as base year and to be revised on 1st April of every year upto 2000 AD) as per G.O.Ms.No.93 Energy (RES) Department dated 18.11.97 from date of commercial operation of the Project. This purchase price is available upto 17th November, 200 only as per G.O.Ms.No.93 Energy (RES) Department dated 18.11.97 read with G.O.Ms.No.112 Energy (RES) Department dated 22.12.98. From 18.11.2000 this purchase price will be as per the orders of APERC. The price is to be paid in rupees only.</p>	<p>Subject to the provisions of this agreement, TSNPDCL shall purchase the Energy delivered by the Company for sale to TSNPDCL.</p> <p>The Company shall be paid the tariff for the Energy delivered at the interconnection point for sale to TSNPDCL at Rs.3.14 per unit without any escalation (Inclusive all taxes & duties etc.) for the period of 5 years from 23.05.2021 to 22.05.2026. Any other additional claims for payment of MAT/IT etc., would not be paid. The energy delivered shall be eligible for meeting the RPPO by TSNPDCL.</p>
3.	9	This Agreement shall be effective upon its execution and delivery thereof between parties hereto and shall continue in force from the schedule date of completion and until the twentieth (20 th) anniversary that is for a period of twenty years from the Schedule Date of Completion, and this Agreement may be renewed for	This Agreement shall be effective upon its execution and delivery thereof between parties hereto and shall continue in force further period of 5 years from 23.05.2021 to 22.05.2026, and this Agreement may be renewed for such further period of time and on such terms and conditions as may be mutually agreed upon by the parties, 90

Sl. No.	Article No.	Existing	Amendment (New)
		such further period of time and on such terms and conditions as may be mutually agreed upon by the parties, 90 days prior to the expiry of the said period of twenty years subject to the approval of APERC for further renewal/extension.	days prior to the expiry of the said period subject to the approval of TSERC for further renewal/extension

Admission of the Proposal and Regulatory Process

6. The Commission has taken the proposal of TSNPDCL on record, examined with reference to the legality i.e., in the context of the provisions of the Electricity Act, 2003, APER Act, Policy, provisions under applicable Regulations and sustainability of the clauses in the PP&WA and decided to finalise the approval or consent of the 3rd amendment to PP&WA through public consultation process and assigned O.P.No.53 of 2021 (Suo Moto).

Regulatory provisions for approval or consent of PPA by the Commission

7. The following are the Regulatory provisions in the matter of approval or consent of arrangement (PP&WA) for the purchase of electricity by a distribution licensee from any person or Generating Company and determination of tariff by the Commission.

Section 21(4) of the Telangana Electricity Reform Act, 1998 (Act 30 of 1998) r/w the Telangana Gazette No.130 dated 1st June, 2016 and G.O.Ms.No.45, Law (F), 1st June, 2016
[Restrictions on licensees and Generating Companies]

(4) A holder of a supply or transmission licence may, unless expressly prohibited by the terms of its licence, enter into arrangements for the purchase of electricity from, -

(a) the holder of a supply licence which permits the holder of such licence to supply energy to other licensees for distribution by them; and

(b) any person or Generating Company with the consent of the Commission.

... ..

Section 86(1)(b) of the Electricity Act, 2003 [Functions of State Commission]

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.

... ..

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the

grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

... ..

Section 62(1)(a) of the Electricity Act, 2003 [Determination of Tariff]

(1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for-

(a) supply of electricity by a generating company to a distribution licensee:

... ..

Notification calling for suggestions/objections/comments

8. The Commission has issued Notice dated 22.09.2021 inviting suggestions/objections/comments on the proposals of TSNPDCL from all the stakeholders and public at large, with the last date for filing of suggestions/objections/comments as 13.10.2021. The PP&WA along with its amendments were placed on the website of the Commission (www.tserc.gov.in). The Notice issued is enclosed at **Annexure-I**.

Response to Notice

9. In response to the above Notice, suggestions/objections/comments have been received from one (1) stakeholder. The details of the stakeholder who have submitted the suggestions/objections/comments is enclosed at **Annexure-II**.

10. TSNPDCL has submitted replies on the suggestions/objections/comments raised by the stakeholder. The Commission has concluded all the suggestions/objections/comments raised by the stakeholder and responses of the TSNPDCL issue-wise hereunder.

Issue 1: General

Stakeholders' submission

10.1 TSNPDCL has to submit the replies to the suggestions/objections/comments of the stakeholders. The stakeholders have to be provided opportunity to make further submissions based on the replies of TSNPDCL. A hearing has to be conducted before deciding on the subject matter.

Commission's view

10.2 The present proceedings have been initiated *Suo Moto* by the Commission vide the Notice dated 22.09.2021. In consideration of the stakeholders' request, the Commission directed TSNPDCL to reply to the stakeholders'

submission and further provided the opportunity to the stakeholders to make additional submissions based on the replies of TSNPDCL. Ample opportunity has been provided for the stakeholders to make their submissions and therefore, the Commission does not accept the request to conduct a Public Hearing in the matter.

Issue 2: Requirement of the proposed procurement

Stakeholders' submission

- 10.3 The Distribution Companies namely, Southern Power Distribution Company of Telangana Limited (TSSPDCL) and TSNPDCL have proposed to relinquish their share of power to the tune of 523 MW from Central Generating Stations (CGS) on the grounds to improve the Plant Load Factor (PLF) of State Generating Stations (SGS). Relinquishing the power from public sector power plants on one side and proposing to purchase power from private sector power plants on the other does not seem to be justified.
- 10.4 The Commission in its Order dated 06.08.2021 in O.P.Nos.15 to 19 of 2021 directed the Distribution Companies to submit the power procurement plan. The proposed procurement from the subject project has to be justified from the power procurement plan.
- 10.5 The subject project has completed 20 years of operation. The project being a Bagasse based cogeneration plant, operates seasonally and therefore, its annual PLF is lower. The power generated seasonally has to be procured irrespective of the requirement of TSNPDCL.
- 10.6 The compliance of Renewable Power Purchase Obligation (RPPO) of the distribution companies has to be examined. The RPPO compliance status with the purchase of power from the subject project included, has to be examined.
- 10.7 In light of the above and also the purchases from market and exchanges, the requirement for extension of PP&WA for a period of 5 years has to be examined from the point of protection of consumer interest.

TSNPDCL replies

- 10.8 Thermal power of NTPC cannot be compared with the subject power plant.

10.9 TSNPDCL is in the process of complying with the Commission's direction to submit the power procurement plan.

10.10 The distribution companies' decisions on purchase of power from different sources are dependent on various factors such as present demand supply position, load growth, additional demands such as Lift Irrigation Schemes (LIS), obligation to ensure 24 hrs. uninterrupted power supply etc. The loads have become more dynamic in nature due to 24 hrs. power supply to agriculture and LIS. The distribution companies are maintaining balance to the extent possible, while procuring power from various sources, for ensuring grid stability and other required technical parameters. Besides, the distribution companies have to comply with RPPO specified by the Commission from time to time. Out of the total contracted capacity of 305.75 MW from non-solar renewable energy sources, the capacity of 45.1 MW is not in operation. The agreement period of most of the biomass, bagasse and mini hydel power projects are expiring by the end of FY 2021-22.

10.11 The compliance status of non-solar RPPO of distribution companies is as under:

Table 1: Compliance status of non-solar RPPO

FY	Non-solar RPPO	
	Target	Achievement
2018-19	0.67%	0.83%
2019-20	0.73%	0.67%
2020-21	0.79%	0.79%

10.12 Presently, non-solar RPPO is being marginally complied and this may become more challenging in future owing to relatively low availability of non-solar power in the State. As such, the power from the subject project would aid in fulfilling non-solar RPPO. TSNPDCL has been procuring power from the subject power plant for the past 20 years. Taking into consideration all these factors, TSNPDCL has sought extension of PP&WA which is in the best interest of the consumers.

Commission's view

10.13 Section 86(1)(e) of the Electricity Act, 2003 mandates promotion of generation from renewable sources of energy by providing suitable measures for sale of electricity. Section 86(1)(e) also mandates the Commission to specify RPPO,

to be met from renewable sources of energy. The Commission issued the Order on *Suo-Moto* determination of compliance of RPPO of TSNPDCL, along with other Obligated Entities for FY 2018-19, wherein, it was held that TSNPDCL has fulfilled RPPO for FY 2018-19. The Commission shall initiate appropriate proceedings for verification of the compliance of Obligated Entities to RPPO for the ensuing years in due course of time.

- 10.14 The procurement of power from this 6 MW Bagasse based cogeneration plant of M/s Gayatri Sugars Limited is easing TSNPDCL in fulfilling its Non-Solar RPO obligation. With the consumer sales registering a positive growth year-on-year thereby the requirement of energy from renewable sources increases, for fulfilling the RPPO, especially non-Solar RPO, in procuring power TSNPDCL has to tie-up with new non-solar renewable sources apart from continuing from the existing sources.
- 10.15 Taking into consideration the mandate of the Electricity Act, 2003 to promote renewable sources of energy, the Commission deems it fit to consider TSNPDCL's proposal for procurement of 6 MW from Bagasse based cogeneration plant of M/s Gayatri Sugars Limited for the period from 23.05.2021 to 22.05.2026.

Issue 3: Tariff

Stakeholders' submission

- 10.16 From the submission of TSNPDCL, it is understood that the company has offered to supply power at the fixed tariff of Rs.3.14 per unit. The project having been selling power since the past 20 years and with the capital cost completely recovered, the tariff payable during the extended period has to be lower than the tariff paid during the tenure of the PP&WA. From the submission of TSNPDCL, it appears that the tariff as offered by M/s Gayatri Sugars Limited was accepted by TSNPDCL without examining the rationale for the same.
- 10.17 TSNPDCL has not submitted if it has considered the renewable energy procurement through competitive bidding at a tariff lower than the tariff offered by M/s Gayatri Sugars Limited.

10.18 TSNPDCL has not clarified if the transmission charges are included in the offered tariff. Further, TSNPDCL has not submitted the financial impact, if any, of any of the other Articles of the PP&WA that are not proposed for amendment.

TSNPDCL replies

10.19 The tariff of Rs.3.14/kWh does not comprise of any fixed cost component which caters to the recovery of capital cost. The Commission vide its Order dated 28.08.2020 has determined the variable cost of Rs.3.3002/kWh, Rs.3.4655/kWh, Rs.3.6396/kWh and Rs.3.8224/kWh for FY 2020-21, FY 2021-22, FY 2022-23 and FY 2023-24 respectively. The negotiated firm tariff of Rs.3.14/kWh is lower than the variable cost determined by the Commission. The tariff was mutually agreed after series of negotiations with the generator and it is not appropriate to conclude that TSNPDCL has not bargained with the generator on tariff.

10.20 The subject power plant has been in the system for the past 20 years and its capacity is included in the transmission charges being paid by TSNPDCL.

Commission's view

10.21 The Electricity Act, 2003 specifies two routes namely, (i) the determination of tariff under section 62 and (ii) the tariff discovery route through competitive bidding under section 63. The Commission has been given discretionary powers either to choose section 62(1)(a) to give approval to the PPA, or to direct the distribution licensee to resort to competitive bidding process as per the Tariff Policy read with section 63. The Commission has to take a view, on a case-to-case basis, bearing protection of consumer interest in hindsight. Therefore, it is well within the powers of the Commission to decide on the tariff proposed for the extended period of the PP&WA with the generic tariffs as approved by the Commission as the benchmark.

10.22 The tariff payable for purchase of power under the PP&WA was governed by the Commission's Orders issued from time to time. In accordance with the same, the total tariff applicable for 20th year of operation as determined by the Commission u/s 62 of the Act, 2003 was Rs.5.02/kWh comprising of Fixed Cost of Rs.1.70/kWh and Variable Cost of Rs.3.32/kWh. The total tariff of

Rs.3.14 per unit (fixed price without any escalation and inclusive of taxes and duties) as proposed for the extended period of PP&WA is even lower than the variable cost as determined by the Commission in exercise of powers vested in it under Sections 62(1) read with Section 86(1)(a), (b), & (e) of the Electricity Act, 2003, vide its Order dated 28.08.2020 in O.P.No.21 of 2020 for the period from FY 2020-21 to FY 2023-24. Therefore, the Commission is satisfied that the mutually agreed tariff for the extended period of PP&WA is a reasonable price for purchase of electricity by TSNPDCL from M/s Gayatri Sugars Limited 6 MW Bagasse based cogeneration plant at Adloor Yellareddy (V), Kamareddy District, Telangana for further period of five (5) years from 23.05.2021 to 22.05.2026.

10.23 The tariff is payable for the Delivered Energy at the interconnection point viz., the point(s) where the project is interconnected with the grid and therefore, the inclusivity of the transmission charges in tariff does not arise, as apprehended by the stakeholder.

11 The Commission has gone through the PP&WA and amendments thereof and opines that the proposed amendments to Articles 4.1 and 9 of the PP&WA are in order. The Commission is of the view that Article 2.15 shall have to be in line with the similar provisions as that of PPAs with other Bagasse based cogeneration plants and hence, the Commission approves the following to be substituted in place of TSNPDCL's proposed amendment:

"Where in any Billing month, the Gross energy and demand supplied by the TSNPDCL to the Company as a bilateral arrangement to maintain the auxiliaries in the power plant in situation of non-generation of power plant shall be billed by the TSNPDCL as per the explanations given, and the Company shall pay the TSNPDCL for such energy and demand supplies. Further, since the Company's power house is running in parallel with TSNPDCL's network, the Company has to pay Grid Support Charges as decided by TSERC from time to time for grid support given to the process unit in the premises.

Explanation 1: The Generating Plants viz., Bagasse based cogeneration plants, Biomass based power projects based on Waste to Energy (projects based on any waste of renewable nature from urban and industrial sector) use the power generated for their captive purpose in the same premises and export surplus power to grid.

Explanation 2: If the Company is not willing to avail power from TSNPDCL for

their processing unit in the same premises during outages of their power plant by providing suitable interlocking arrangements between power plant and processing unit, and desires to draw power from Grid for starting and maintenance purpose of the generating station through the dedicated line intended for export of power, the following conditions will apply:

- i. The Company has to declare the Load requirement for Starting and Maintenance purposes of the power plant and agreed to by TSNPDCL.*
- ii. The Company will not have a separate H.T. Service connection number, H.T. Agreement and Contracted Maximum Demand. The Gross energy and the recorded maximum demand shall be billed as per TSNPDCL's the then tariff rates applicable to HT-I consumers.*
- iii. In the event of exceeding the declared load, penal charges will apply as per Tariff conditions.*
- iv. In case the developer wants the power from grid for their processing plant during planned outage, a separate requisition for sanction of Temporary supply for the purpose shall be made utilising the existing infrastructure for the project.*

Explanation 3: If the Company is willing to avail power from TSNPDCL for their processing unit in the same premises during outages of their power plant, and desires to draw power from Grid for starting and maintenance purpose of the Generating station through the dedicated line intended for export of power, the following conditions will apply:

- i. The Company will have a separate H.T. Agreement and Contracted Maximum Demand with TSNPDCL.*
- ii. The Gross energy and the Demand shall be billed by TSNPDCL as per the then tariff applicable to HT-I consumers."*

12 The Commission does not find the need to discuss the remaining Articles of PP&WA, as the same had been approved earlier and no amendments have been proposed to the same.

13 With the above observations, the Commission hereby accords consent to TSNPDCL for procurement of power from 6 MW Bagasse based cogeneration plant M/s Gayatri Sugars Limited at Adloor Yellareddy (V), Kamareddy District, Telangana for a period of 5 years from 23.05.2021 to 22.05.2026 at a tariff of Rs.3.14/kWh without escalation and inclusive of all taxes and duties. TSNPDCL is directed to submit fair copy of the 3rd Amendment to the PP&WA, for record.

This Order is corrected and signed on this 20th day of November, 2021.

Sd/-
(BANDARU KRISHNAIAH)
MEMBER

Sd/-
(M.D.MANO HAR RAJU)
MEMBER

Sd/-
(T.SRIRANGA RAO)
CHAIRMAN

//CERTIFIED COPY//

**Annexure-I
Notice**



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500004

NOTICE

1. TSNPDCL viz., Northern Power Company of Telangana Limited (TSNPDCL) has submitted before the Telangana State Electricity Regulatory Commission (TSERC) proposal for consent of Power Purchase & Wheeling Agreement entered with M/s Gayatri Sugars Limited, 6 MW Bagasse Co-generation plant at Adloor Yellareddy(V), Kamareddy District for extension of 5 years period i.e., from 23.05.2021 to 22.05.2026.

The TSNPDCL has requested the Commission to accord consent to the above mentioned PP&WA

2. Copies of the proposals along with the related documents are uploaded on the Commission's website www.tserc.gov.in. Suggestions/Objections/Comments in the subject matter are invited from all stakeholders and public at large, so as to reach the following address on or before **13.10.2021 by 5.00 P.M.**

Commission Secretary [FAC]
Telangana State Electricity Regulatory Commission
5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul,
Hyderabad 500004
E-mail id: secy@tserc.gov.in


COMMISSION SECRETARY [FAC]

DATE: 22.09.2021

Annexure-II
List of stakeholders who submitted written suggestions and comments

Sl. No.	Name of the Stakeholder
1)	Sri M.Venugopala Rao, Senior Journalist & Convenor, Centre for Power Studies, H.No.1-100/MP/101, Monarch Prestige, Journalists' Colony, Gopanpally, Serlingampally Mandal, Hyderabad – 500 032

